

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 519 w/CS Acme Improvement District/Codification
SPONSOR(S): Vana
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Affairs (Sub)</u>	<u>8 Y, 0 N</u>	<u>Sheheane</u>	<u>Highsmith-Smith</u>
2) <u>Local Government & Veterans' Affairs</u>	<u>16 Y, 0 N w/CS</u>	<u>Sheheane</u>	<u>Highsmith-Smith</u>
3) <u>Judiciary</u>	<u></u>	<u></u>	<u></u>
4) <u>Finance & Tax</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill codifies all prior special acts relating to the Acme Improvement District into a single act. The bill amends the boundaries of the District and provides that the Acme Improvement District is a dependent district of the Village of Wellington. The bill also makes other changes that do not appear to alter the effect of existing law pertaining to the District.

According to the Economic Impact Statement, there are no new, increased, or decreased revenues as a result of this codification.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

The Acme Improvement District is currently declared a public corporation of the state and the General Drainage Laws of Florida as embodied in chapter 298, F.S., are applicable to the District. The Acme Improvement District currently has all of the authorities conferred by chapter 298, F.S.

This bill codifies all prior special acts relating to the Acme Improvement District into a single act. The bill amends the boundaries of the District and provides that the Acme Improvement District is a dependent district of the Village of Wellington. The bill also provides for the applicability of chapter 189 F.S.

Chapter 298, F.S., also sets out provisions governing the creation and operation of water control districts. Some of these provisions are briefly described below.

Creation of Water Control Districts

Section 298.01, Florida Statutes, restricts the creation of new water control districts to special acts of the Legislature (independent water control districts) and under the provisions of section 125.01, Florida Statutes (dependent water control districts). Districts created by circuit court decree prior to July 1, 1980, are authorized to operate under the authority provided by chapter 298, Florida Statutes.

Election of Board of Supervisors

Upon the formation of a water control district, the circuit court where the majority of the land is located has jurisdiction within the boundaries of the district. Once a district is organized, notice of the first landowners' meeting shall be given. The notice shall be published once a week for two consecutive weeks in a newspaper. At the first meeting, the landowners are required to elect a three-member board of supervisors. Supervisors serve 3-year rotating terms, with one supervisor elected each year at a required annual meeting. To qualify as a supervisor, a person must own property in the district and be a resident of the county in which the district is located, unless a district's special act provides otherwise. The Department of Environmental Protection is authorized to vote on any matter that may come before a landowners' meeting if acreage owned by the state is subject to assessment by the district.

One-Acre, One-Vote

Section 298.11(2), Florida Statutes, provides that every acre of assessable land within a district represents one share, or vote. Each landowner within a district is entitled to one vote per acre of assessable land that he or she owns. Landowners owning less than one acre are entitled to one vote. The section allows proxy voting by landowners as well. Landowners owning more than one acre are

entitled to one additional vote for any fraction of an acre greater than 1/2 acre, when all of the landowners' acreage has been aggregated for purposes of voting.

Role of the Circuit Courts

Prior to July 1, 1980, when a water control district was formed, the circuit court of the county where the majority of the land is located had exclusive jurisdiction within the boundaries of the district. Circuit courts served several functions in the creation and governance of water control districts. After a board of supervisors adopted a plan of reclamation, it petitioned the circuit court to appoint three commissioners to appraise the lands that would be acquired to implement the plan of reclamation. A circuit court may have required the report on assessment of benefits and damages to be amended to include condemned lands needed to construct the district's works. In the event a circuit court determined that the value of land within the district had changed and additional conditions were met, the court was required to appoint three commissioners to readjust the original report on the assessments of benefits and damages.

Water Control Plans

Effective October 1998, any plan of reclamation, water management plan, or plan of improvement developed and implemented by a water control district is considered a "water control plan". The approval and implementation process has been removed from the purview of the circuit court.

Before adopting a water control plan or plan amendment, the board of supervisors must adopt a resolution to consider adoption of the plan or plan amendment. The board of supervisors shall publish notice of a public hearing once a week for 3 consecutive weeks in a newspaper of general circulation. Individual notices are mailed to landowners, the jurisdictional water management district, the county commission of the county and any municipality in which the District is located.

At the public hearing on the proposed plan or plan amendment the board of supervisors will consider any objections to the plan and then shall determine whether or not to proceed with the plan. In the event the board proceeds forward, it will then direct the District Engineer to prepare a report in writing to the board of supervisors complete with maps and surveys. The report shall include a full and complete water control plan for draining and reclaiming the lands described in the petition. Further, the report must contain an estimate of the costs of carrying out the completing the water control plan and an estimate of the benefits derived from the water control plan.

A final hearing on approval of the water control plan and the engineer's report, is noticed by publication, and held at a regularly scheduled board of supervisors' meeting within 60 days after the filing of the engineer's report with the secretary of the district.

Before final adoption of the engineer's report and water control plan or plan amendment under section 298.301, Florida Statutes, the board of supervisors must determine that the estimated costs of construction contemplated in the plan or amendment is less than the benefits determined for the lands.

The board of supervisors must review the water control plan at least every 5 years following its adoption.

Revenue Sources

The primary funding source for water control district activities is special assessments, which must be imposed on the property so that the burden on every parcel will bear a just proportion to that imposed on every other. In other words, the assessment of the particular parcel must represent a fair, proportional part of the total cost and maintenance of the improvement. Special assessments are limited to the property benefited and are not taxes within the meaning of the general constitutional

requirement that taxation be imposed at a uniform rate. Special assessments may be determined legislatively or judicially.

A board of supervisors is authorized to issue bonds, not to exceed 90 percent of the total amount of special assessments levied.

Limitation on Special Acts

Section 11(a)(21), Article III of the State Constitution, provides that no special law or general law of local application shall be enacted that pertains to any subject prohibited by a general law passed by a three-fifths vote of the membership of each house. However, such a general law may be amended or repealed by like vote.

Section 298.76, Florida Statutes, is an example of such a general law passed by a three-fifths vote of the membership of each house. The statute provides that there shall be no special law or general law of local application granting additional authority, powers, rights, or privileges to any water control district formed pursuant to chapter 298, Florida Statutes. Section 298.76 Florida Statutes, does not prohibit special or local legislation that:

- (a) Amends an existing special act that provides for the levy of an annual maintenance tax of a district;
- (b) Extends the corporate life of a district;
- (c) Consolidates adjacent districts; or
- (d) Authorizes the construction or maintenance of roads for agricultural purposes as outlined in this chapter.

Section 298.76 Florida Statutes, authorizes special or local legislation:

- (a) Changing the method of voting for a board of supervisors for any water control district;
- (b) Providing a change in the term of office of the board of supervisors and changing the qualifications of the board of supervisors of any water control district; and
- (c) Changing the governing authority or governing board of any water control district.

Finally, section 298.76, Florida Statutes, provides that any special or local laws enacted by the Legislature pertaining to any water control district shall prevail as to that district and shall have the same force and effect as though it had been a part of chapter 298, Florida Statutes, at the time the district was created and organized.

Codification

Codification is the process of bringing a special act up-to-date. After a special district is created, special acts often amend or alter the special district's charter provisions. To ascertain the current status of a special district's charter, it is necessary to research all amendments or changes made to the charter since its inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to more easily determine the current charter of a district.

Codification of special district charters was initially authorized by the 1997 Legislature and is codified in section 189.429, F.S. and s. 191.015, F.S. The 1998 Legislature subsequently amended both sections of statute. Current law provides for codification of all special district charters by December 1, 2004. The 1998 law allows for the adoption of the codification schedule provided for in an October 3, 1997, memorandum issued by the Chair of the Committee on Community Affairs. Any codified act relating to a special district must provide for the repeal of all prior special acts of the Legislature relating to the district. Additionally, the 2001 Legislature amended section 189.429, Florida Statutes to provide that reenactment of existing law pursuant to section 189.429: (1) shall not be construed to grant additional authority nor to supercede the authority of an entity; (2) shall continue the application of exceptions to

law contained in special acts reenacted pursuant to the section; (3) shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness; and (4) shall not be construed to affect a district's ability to levy and collect taxes, assessments, fees, or charges for the purpose of redeeming or servicing the district's bonded indebtedness.

Status Statement Language

Section 189.404(5), F.S., provides that after October 1, 1997, the charter of any newly created special district shall contain and, as practical, the charter of a preexisting special district shall be amended to contain, a reference to the status of the special district as dependent or independent. When necessary, the status statement shall be amended to conform to the Department of Community Affairs' determination or declaratory statement regarding the status of the district.

C. SECTION DIRECTORY:

Section 1: Constitutes the codification of all special acts relating to the Acme Improvement District.

Section 2: Amends, codifies, reenacts, and repeals all special acts relating to the district.

Section 3: The charter for the Acme Improvement District is re-created and reenacted to read:

Section 1: Amends the boundaries of the Acme Improvement District. A boundary letter received from counsel¹ for the District confirms this is a minor boundary change.

Section 2: Maintains language declaring the Acme Improvement District to be a public corporation of this state and that the District has all authorities mentioned in chapter 298, F.S. This section also provides new language stating that the District will have the authorities mentioned in chapter 189, F.S.

Section 3:

(1) Maintains current language that the District shall have the power to sue and be sued and also provides detail of other current powers of the District.

(2) Additional Powers of the District. This section maintains current language authorizing the Acme Improvement District to:

- (a) Provide and maintain recreation areas within the District.
- (b) Purchase or otherwise obtain land for purposes of the District.
- (c) Take appropriate action to form a municipal government under the laws of this state.
- (d) Appoint advisory boards consisting of landowners in the District.
- (e) Require individuals to obtain a permit to use the property of the District in any way.

(3) Provides new language authorizing the District to participate in programs provided for under the provisions of public law 92-500 as they apply to the District. This section also maintains current language pertaining to including a provision in a water management plan for roads for the benefit of residents of the District. The following is current language describing further powers of the District:

- (a) To provide a water management plan for a unit of development.

¹ Robert A. Rosillo, Esq., Assistant Counsel for Acme Improvement District

- (b) To finance and maintain roads as part of a water management plan.
- (c) To construct and maintain security structures to control the use of such roads.
- (d) To make a provision to access such roads by emergency personnel.
- (e) To include in the annual assessment of taxes to finance and maintain such roads.
- (f) To adopt rules and regulations for the control of traffic, noise, crime, and the use of the roads.
- (g) To provide for the exclusive use of roads if the written consent of the owners of 75 percent of the land within the unit has been obtained.

Section 4: This section provides language stating that effective March 28, 1996, at 7 pm, the terms of office of the Board of Supervisors of the Acme Improvement District was terminated and the Village Council Members of the Village of Wellington assumed the duties and responsibilities of the Board of Supervisors and thereafter constituted the Board of Supervisors. The following are provisions relating to the Board of Supervisors:

Section 5: States that the Supervisors of the District will serve without compensation, but will be entitled to reimbursement of travel expenses.

- (1) States that the Village Manager will have the same authority as the Chief Administrator of the Acme Improvement District.
- (2) The Village reauthorizes the Acme Improvement District to establish rates and fees on water and sewer utility services.
- (3)
 - (a) The Village provides that all unpaid water and sewer utility charges constitute a lien on the real property affected.
 - (b) Provides language relating to delinquent utility charges.
 - (c) Provides language relating to such liens.
 - (d) Provides language relating to the costs of enforcing liens.
 - (e) Provides language relating to the full payment of the delinquent utility charges.
 - (f) States that foreclosure of all liens will be pursuant to chapter 173, F.S.
 - (g) States that this section shall apply retroactively to all liens filed by the District.
 - (h) States provisions relating to liens on rental property and the tenants involved.

Section 6: Maintains current language relating to the meetings of landowners.

Section 7: Maintains current language relating to taxes levied within the District which are pursuant to the General Drainage Laws of Florida. In lieu thereof, the following shall apply:

- (1) Provides new language relating to the Tax Collector of Palm Beach County's duty to collect taxes pursuant to the "Drainage Tax Book" and describes compensation of the tax collector.

(2) Maintains current language relating to taxes levied on land less than one acre.

Section 8: Provides new language relating to the penalties of unpaid taxes relating to this Act, provides amount of penalty; provides general law applicability for unpaid taxes as alternative.

Section 9: Provides new language relating to the forfeiture of title to tax delinquent lands and suits to enforce liens. Lands acquired by the District may be sold in the manner following:

- (1) Such lands may be sold for the best price obtainable.
- (2) The deed will not be executed until full payment is made.
- (3) States requirements of publication before selling such land.

Section 10: Maintains current language regarding uniform acreage tax.

Section 11: Maintains current language relating to the sale of bonds. The price for any bonds sold may be:

- (1) The money paid for the bonds.
- (2) The principal amount, plus accrued interest.
- (3) The amount of any indebtedness to persons paid with such bonds as determined by the Board of Supervisors.

Authorization and Form of Bonds: Maintains language relating to the authorization of bonds.

Interim Certificates; Replacement Certificates: Maintains current language relating to replacement and interim certificates.

Negotiability of Bonds: Maintains current language relating to negotiability of bonds for the District.

Defeasance: Maintains current language relating to a provision regarding defeasance of the right, title, and interest of the holders of any bonds.

Issuance of Additional Bonds: Maintains current language relating to the issuance of additional bonds.

Refunding Bonds: Maintains current language relating to the refunding of bonds.

Revenue Bonds: Maintains current language relating to revenue bonds.

Drainage Tax Bonds:

- (1) Maintains that the District may issue bonds payable from drainage taxes from time to time.
- (2) Maintains that such bonds may be payable from drainage taxes which may be deposited in a special fund for the benefit of holders of the bonds.

Bonds as Legal Investment or Security:

- (1) Maintains that all bonds relating to this Act constitute a legal investment.
- (2) Maintains that any bonds issued by the District are incontestable.

Covenants: Maintains current language pertaining to covenants as deemed necessary by the Board of Supervisors.

Section 12: Maintains current language stating that the District is fully authorized to issue bonds pursuant to this Act.

Section 13: Maintains current language authorizing the Board of Supervisors to issue bonds without approval of the Board of Drainage Commissioners or the State of Florida.

Section 14: Floating Indebtedness: Maintains that the Board of Supervisors may issue warrants or negotiable notes termed as "Floating Indebtedness".

Section 15: Maintains current language relating to use of bonds and interest coupons in payment of taxes not authorized.

Section 16: Maintains that the provisions of the Florida Statutes relating to the payment of taxes in advance are not applicable to the District.

Section 17: Maintains that the Board of Supervisors have the right of eminent domain.

Section 18: Maintains that surface waters are common enemy in the District.

Section 19: This section maintains current language relating to unit development authorizing the Board of Supervisors to drain and reclaim the lands in the District or parts of the District to be called "units." Said units are to be given appropriate numbers or names to be readily identified and distinguished.

Section 4: Maintains that the Acme Improvement District may amend its master water management plan from time to time.

Section 5: Provides for severability.

Section 6: This act shall be liberally construed to promote the purposes for which it was intended.

Section 7: Repeals all acts relating to the Acme Improvement District.

Section 8: This section provides detail to the history of the Acme Improvement District in regards to the Village of Wellington.

Section 9: Provides for the Acme Improvement District's resolutions to remain in effect to the extent not inconsistent with the Village of Wellington Charter.

Section 10: Provides for the authorization of other provisions which are necessary to aide in the transition of the Acme Improvement District as a dependent district of the Village of Wellington to be adopted by ordinance.

Section 11: This act shall take effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 23, 2002.

WHERE? The Palm Beach Post, West Palm Beach, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

A boundary letter was received from the Assistant Counsel for the Acme Improvement District and the letter confirms the boundary change is minor.

IV. AMENDMENT/COMMITTEE SUBSTITUTE CHANGES

In the meeting on April 8, 2003, the Committee on Local Government and Veterans' Affairs voted to adopt a CS for the bill. The CS differs from the original bill in that it clarifies that the district is a dependent district and removes the supremacy clause.